
SOME
OBSERVATIONS
Concerning the
REGULATING
OF
ELECTIONS
FOR
PARLIAMENT.



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OBSERVATIONS
Concerning the *(Cooper (a.a.) Earl*
REGULATING
OF
ELECTIONS
FOR
PARLIAMENT,

FOUND

Among the EARL of *Shaftsbury's*
Papers after his Death, and now recommended
to the Consideration of this Present Parliament.

with Allowance.

L O N D O N :

Printed, and are to be Sold by *Randall Taylor*
near *Stationers-Hall.* 1689.

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OBSERVATIONS

REGULATIONS

FOR THE

PARLIAMENT



Printed at the British Museum, and are recommended
to the consideration of the House of Commons.

1801

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SOME
OBSERVATIONS
Concerning the
REGULATING
OF
ELECTIONS
FOR
PARLIAMENT, &c.

THE Parliament of *England* is that *Supreme and absolute Power*, which gives Life and Motion to the *English* Government. It directs and actuates all its various procedures, is the Parent of our Peace, Defender of our Faith, and Foundation of our Properties; and as the Constitution

of this great *Spring*, and *Primum Mobile* of Affairs, is in Strength and Beauty, so will also all *Acts* and Performances which are derived from it, bear a suitable proportion and similitude. For whether the Constituting Members of this Great *Body* be *such*, as may give it the denomination of *Sanctum*, *Indoctum* or *Insanum*, (by which Epithets some former Parliaments have been known and distinguished) such will also be, all the *Acts* and Statutes which are made by them, each naturally wearing the Character and Likeness of that, to which it owes its Being.

This Great Council bears a date, coævous perhaps with the Originals of our Government, and was Constituted with sufficient prudence and caution, with relation to the Innocence and Ignorance of the Times and People then in being. It was *then*, that a *Deed* of three Inches square, was sufficient to convey away twenty good Mannors and Lordships. But *Subtlety* and *Cunning* having now made some bolder advances into the World, we are forced to alter our Measures, and instead of Inches to take Ells. It seems therefore necessary, as in things of smaller concernment, so most especially in matters of so much greater moment, (as is the settling and fortifying our Parliament,) so to erect its Bulwarks and Rampiers, that the most vigorous Attacks of Fraud and Corruption may make no Breaches or Inroads upon it. It is here, our care and diligence ought to be applyed with the greatest exactness; for as our Laws and Government are Established, we can derive our Happiness or Misery from no other Source. It is from the Fruit of this Great Council that we must expect our Nutriment, and from its Branches
our

our Protection ; I hope therefore it may not seem over-
 Officious, if with the skilful Gardiner, I do open and
 expose the Roots of this great Tree of the Common-
 Wealth, with an intent that every Branch and Fibre
 may with the greater ease and conveniency, be so
 trimmed and laid, that no Defects or Redundancies
 may continue ; But that every individual of this
Great Body, may happily conspire to produce that
 Peace and Tranquillity in the Nation, which may be
 expected from their Counsels, and a well constituted
 Government.

It seems then reasonable to believe, That the Privi-
 ledge of sending Representatives to Parliament, (though
 grounded upon a Natural and Fundamental Right in the
 People) was at first immediatly derived from the King ;
 for that, where Histories and Records begin to transmit
 memorials to succeeding Ages, we find him sending his
 Writs, directed to such Persons, Towns, or Vills, which he
 thought most considerable within the Kingdom, by ver-
 tue of which Writs, Elections were accordingly made,
 and Representatives returned to Parliament. That the
 Kings Prerogative does still extend to grant this Fran-
 chise, to such other Towns or Villages as he shall
 think fit, I cannot affirm, because some

(a) Learned in the Law assure us it cannot
 legally be done, but by Act of Parliament.
 But others are again of a contrary opinion,
 as was adjudged in the Case of (b) *Duncan-*
non and (c) *Newark*. It is certain, that
 Parliamentary matters were never settled
 otherwise than by Act of Parliament, as

(a) *Pryn's* Re-
 gister of Par-
 liament Writs,
 1. Part, f. 238. b.

(b) *Hob. Rep.*
 f. 14.

(c) Journal of
 the Commons
 House.

appears

(d) 5. R. 2. c. 4. appears by several (d) Statutes in such
1. H. 5. c. 1. Cases made, and we also find the priviledge
23. H. 6. c. 15. of sending Members to Parliament, given
(e) 27. H. 8. c. 26. to several places by (e) Act of Parliament,
34. H. 8. c. 13. which had been unnecessary, could the
35. H. 8. c. 11. King alone have granted it by any other
Method. It is moreover a thing of very dangerous
Consequence, to have such a Power lodged in the King
alone; for then he might thereby infranchise what
number of Vills he pleases, and by the same power
place the Election of their Representatives in a select
Number, such as he should always have the power to
direct and appoint; which would be in effect to choose
his own Parliament, and thereby to Make or Repeal
what Laws he pleases. Wherefore I conceive this Point
ought now to be so settled, as for the future to ob-
viate all such inconveniencies which might otherwise
ensue.

Another thing, which also requires the care of this
Great Council, is to limit and restrain the exorbitancies
of a *Quo Warranto* so, that the Electing Burroughs may
have their priviledges and immunities secured, from the
Judgment of a Corrupt Judge, who derives his Being,
and holds his Judicial Breath only *ad voluntatem Domini*.
If this Grievance be not obviated by some good Law,
a King may as well destroy all the old Burroughs, as
erect new ones, to the inevitable overthrow of our
Laws and Government.

In the next place I conceive it may become the Pru-
dence of this Parliament (from which we may expect
the Foundations of our Happiness will be so laid, as to
become

become impregnable against all the future Assaults of an invading Tyranny) to look into the Constitutions, and Customs of such Burroughs which have right to Elect, and which in several particulars, seems to require a touch of the Supreme Authority to set them Right. The first inconvenience they labour under, is the variety of their respective Titles; some claiming to Elect by Prescription, others by Grant; some again by a select Number, others by the Populacy; some by the Magistrate and Burgesses, others by the Magistrate, Burgesses and Freemen, others again by the Magistrate, Burgesses, Freemen, and Commonalty, and some also in respect of their ancient Burrough Houses only; the rest of the Town, which is the much more considerable part, being excluded. The Grievance which grows from this difference of Title in several Burroughs, is often ambiguity and uncertainty of Title in the same Burrough; for sometimes the select Number contends with the Community, one Burrough House with another, &c. And from hence it is, that we have usually so many Petitioners in each Parliament, the Magistrate not knowing which of right ought to be Returned. Nor can a Committee of Elections ever settle their respective Titles, by a final determinative Judgment; for we find it often giving an Opinion upon one and the same Title, and in the same Burrough, differently, as favour and power can make the stronger interest. All this may be remedied by an *Act*, which should give one and the same new Title to all the Electing Burroughs in *England* and *Wales*, by which alone, they should all for the future, claim to send Members to Parliament; thereby settling the Electing power in such persons, (whether they be a select Number, or

the whole Populace,) as in prudence should be thought most convenient.

The design of choosing the Members of Parliament by the People, was, that no Laws should be made, no Monies raised, nor any Course pursued, by those who sit at the Helm, but with the Steerage and Direction of the People, by their Representatives. Now by all the Laws and Rules of Representation, no Town, City, or Body of People, can be represented without a Vote in the Choice of their Representative. That the Parliament as now Constituted, is no equal Representative of the People, is notorious; in that several Burroughs, so inconsiderable, that they contain not above three or four Houses, send each of them two Representatives to Parliament, whilst others (which contain an hundred times their Number of Houses, People, Trade and Wealth) have no Representative at all in the management of Publick Affairs. So also the County of *Cornwall* sends no less than forty three Members to Parliament, whilst the City, and whole County of *Chester* sends but four, and the twelve Counties of *Wales* but twenty four amongst them all.

From this inequality of Representation it follows, that *Acts* are often made which redound to the prejudice of the whole Body of the People, merely to advance the Gain and Advantage of some particular places; as was that which Prohibited the Importation of *Irish* Cattle, being carried principally by the supernumerary Votes of some Counties, which have more Electing Burroughs, than upon a just and equal Devidend, do fall to their share; and these being generally of a dry and barren Soil are thereby chiefly adapted to the breeding of Cattle; which benefit would have

have been diminished by an inlet of Beasts from *Ireland*. This inconvenience may be easily removed by depriving Towns of less note of this Franchise, and bestowing it upon others of greater Consideration in the same, or in other Counties, which most want it, as do those of *Cambridge, Bedford, Hartford, Huntingdon, &c.*

Where the Electing Right is committed to a select Number, I think it were desirable, that the Electors should be chose annually, and not be Tenants for Life in their Electorate; this would in a great degree prevent pre engagements, and corruption, which often happens where a power by long continuance in one person, is apt to stagnate and putrifie.

The great number of Electors in *Popular Burroughs*, and in choosing Knights of the Shire, requires to be regulated and limited, and the power of Election to be fixed in the Optimacy only. My Reasons for this are, that amongst the Electing Crowd, the Majority is generally of a mean and abject Fortune in the World, and thereby subject not only to disorders and quarrels, but to be misguided also by their ignorance, and total want of that discerning faculty, which Electors in such weighty concerns ought to have: they are moreover under the temptation of being Corrupted and Seduced by the inveiglements of a little Money, or a Pot of Ale: whilst those whose Circumstances are more enlarged, have their thoughts so likewise, being thereby raised beyond such low allurements, and rendered more careful how, and into whose Hands they dispose of this

great Trust, the breach whereof might at once Rob and deprive them of that their substance, which has been the acquisition perhaps of some Ages. It was for these and several other Reasons mentioned in the Preamble, that by the Statute of the 8. of H.6. c. 7. it was enacted that no Knight of the Shire should be chose by any, who had not a Freehold of the clear yearly value of 40*s. per annum*, which was then as much in value as 40*l. per annum* is now, or has been, since the finding out of the *American* Treasure, and the enlargement of our Trade. And I think it but reasonable that as the value of Money falls, so the Wealth of the Electors should rise, and that Electing Votes in the County should again be limited to such only, who now have Lands and Tenements to that value, which 40*s. per annum* bore in those times when this Act was made. If this particular were thus regulated, the numbers at the County Elections would be reduced, probably to a fourth part of what they now are, and thereby the unreasonable expence in entertaining so great a Crowd, and the great dangers which may accrue from such an ungovernable Multitude, would be in a great degree avoided and prevented.

As the Persons Electing ought to be Men of Substance, so in a proportioned degree ought also the Members Elected. It is not safe to make over the Estates of the People in Trust, to Men who have none of their own, lest their Domestick Indigencies, in Conjunction with a Foreign Temptation, should warp them to a contrary Interest, which in former Parliaments we have sometimes felt to our sorrow.

Wealth

Wealth and Substance will also give a Lustre and Reputation to our great Council, and a security to the People; for their Estates are then pawned, as so many Pledges for their good behaviour, becoming thereby equal sharers themselves in the benefit or disadvantage which shall result from their own Acts and Councils.

Thus a good Estate may be a good security to engage Faith and Honesty; but he who sits at the Helm of Government, ought not only to be a Graduate in Fortune, but in Prudence and Experience also. To me it seems extremely irregular, to see the unfledged Youth make his first advances into the World, in the quality of a Burgess for Parliament, chosen upon no other account but because it was his Fortune, by his Fathers early death, to become the Landlord of a Neighbouring Burrough, or is perhaps its best Customer, deriving from thence the necessaries of a numerous Family. Forty years (whereof twenty five are generally spent in Childhood and vanity) seem to be few enough to entitle any one to the Grandeur and Gravity of an *English* Senator, and why so many, who seem by their greenness to be as yet but a Novelty to the World, should be admitted a place in this Great Council, whilst those of greater Age, Wisdom, and Experience must be excluded, I do not understand.

By the 1. H. 5. ch. 1. It is Enacted that every Knight of the Shire should be chosen out of such who are Resident in the County, and every Citizen and Burgess, from amongst the Citizens and Burgeses

gesses of the Cities and Burroughs Electing. How far this Act ought to be observed, will be worth consideration; for a confinement in this Case, seems to be an abridgement of a free Choice, and it often happens, that Men of the greatest Knowledge and Experience in the Affairs of the Kingdom, have their Abode principally in the Metropolis, especially such of the long Robe, who by their Profession are obliged to it. But the Non-observance of this Act on the other side, has been often the occasion that Courtiers have bolted into Country Burroughs, and by the strength of their Purse, and liberal Bairs, have so seduced these poor Rural Animals, as to obtain an Election from them, though to the ruin and overthrow of their own Laws and Liberties. The choosing of such Men to serve in Parliament, might probably be obviated, by an Act, Prohibiting the Expence of any Mony by Treats or otherwise, in order to be Elected, it being only to these indirect Methods, that such persons usually owe their success.

But when all is done, it will be found difficult (though with the greatest Art) to bring an old irregular Structure into a convenient Uniformity, otherwise than by razing it to the Ground, and erecting a new Pile by some better contrived design. For although all the defects and irregularities in the Election of Members for Parliament before-mentioned, should be removed and altered, yet there still remains something in the very Constitution of this part of our Government, which is not so agreeable to a curious thought. A True and Perfect Model to build by,
is

is what I dare not pretend to give, yet that which follows may afford some hints and Assistance to a better Fancy and Judgment.

In respect then, that every individual Person in the Nation, has a Natural Right to Vote in this Great Council; but this being impracticable, they are forced to do it by proxy (that is) by devolving this Right upon certain Common Representatives indifferently chosen, for certain Select Numbers and Communities of Men, in which the whole Body of the People is, or ought to be comprehended; And whereas, every *Pater-Familias*, or House-Keeper, is a Natural Prince, and is invested with an Absolute Power over his Family, and has by necessary Consequence, the Votes of all his Family, Man, Woman, and Child included in his; Let then the Sheriffs Precepts be directed to every Parish within his County, which the next *Sunday* following the Receipt thereof, may be publickly Read after the Forenoon Sermon in Church; Thereby giving notice to all the House keepers in the Parish, to meet at a convenient place, and certain hour the day following, in order to choose an Elector for the County. Let also the Church-Wardens of each Parish prepare a List of eight or ten of the most eminent Persons for Wealth, Gravity, and Wisdom in their Parish; this List to be brought the next day to the place of Election, to this purpose, that every House-keeper do, by a dot with a Pen, adjoined to the person's name whom he inclines to Elect, declare his Choice; and that by the plurality of dots, the Elector be returned by the Church-wardens to the Sheriff. This done in each Parish,

let

let the Sheriff prepare a List in the same manner, of the names of all the Gentry in the County, who are each worth in Lands and moveables at least 10000 l. all Debts paid, and not under forty years of Age; which being in readiness, let all the Representatives of Parishes, chosen as aforesaid, repair to the County Town the very next day after the Parish Election is over, and there proceed to Elect out of the Sheriffs List, seven, nine, or eleven Members to serve in Parliament, or so many as upon a just Dividend, shall be thought expedient to compleat the Number of Members, which are to Act in this great Council.

Before the Electors proceed to choose for the County, it might probably be convenient to Administer an Oath to this purpose, *That their Vote is no way pre-engaged, and that they will choose, without Favour or Affection, such Members as in their Conscience they do believe most fit to serve in Parliament.* And that to the Members Elected, upon their admission to the House, this Oath, together with the others in use, be Administred, *viz. That they are worth 10000 l. all their Debts paid, and that directly, or indirectly they did not expend any Money, or Gratuity whatsoever, in order to their Election, and that they neither have, nor will receive any Gratuity whatsoever, upon the account of their Vote in Parliament, but that they will in all Matters that shall come before them, act uprightly according to their Conscience and Understanding, without any private Design, Favour, or Affection to any.*

That

That, to prevent the inconveniencies of Fear and Favour in Electing, the Method be such, that none may know on whom the Electors Votes were conferred; and it may be thus performed. Suppose a Room with two opposite Doors, and a Table in the middle, on which the List shall be spread. All the Electors being at one Door, let them go in one by one, each Writing down his dots, and going out of the Room at the other Door before another comes in; or if this may prove tedious, it is only placing more Tables in the Room with every one a List on it, and so many may then be admitted in at once, as there are Lists, which will make greater dispatch, and yet no discovery, in that every List is upon a separate Table. To prevent also all fraud and indirect practice, it will be convenient that the Officers concerned in the Elections, both in Parishes, and in the County, be upon their Oaths. It is also fit that a limited allowance be made for the expence of the day, which is to be in Parishes, at the Parish Charge, and in the County Town, at the Charge of the County.

If any Controversie arise about Elections, either in the Parishes or Counties, (which in this Method can scarcely be supposed) it may be decided by the Votes of the remaining Persons upon the List, who pretend to no Election. If several Persons happen to have an equal number of Votes, it shall be determin'd by Lott. If any Person from any part of *England*, shall send his Name to any particular County, to be inserted in their List, as a Person qualified to serve in Parliament, it may be done; but none to stand Candidate, in more
 C than

than one List at a time, lest he should be chosen in both Counties, and so occasion the trouble of a new Election. That the same List of Candidates shall continue till the dissolution of the Parliament, if it sits not above three Years; and upon the intermedial death or removal of any of the Members for the County, then he who had the next Majority of Votes upon the List, to succeed in his place, without further trouble or charge of Election.

By this Method the Parliament will be a perfect Representative of the whole Body of the People, and also of every numerical Person in the Kingdom. Here can be no partial (and consequently prejudicial) Acts made by separate Interests and Factions: None will sit in this Great Council but Men of Gravity, Wisdom, Integrity and Substance; No pensionary Members; no unfair Elections; no foul Returns; no Petitioners kept in Attendance till a Dissolution; no *Quo Warrantos* to destroy the natural fundamental Rights of the People; no room for Corruption, Bribery and Debauchery, either in the Electors or the Members elected; no Patrimonies wasted in the Extravagancies of an Election; No Bankrupts shrowding themselves under the shelter of a Parliamentary Privilege; No unruly Rabbles, Tumults, Factions and Disorders in Election, amongst the Commonalty; No Heats and Animosities amongst the Gentry, often caused by their violent Competitions: But all will be managed with that evenness, Justice and Temper, that nothing can more effectually conduce to the securing of our Liberties and Properties, the Grandiour of our Government, and the Honor of our Nation, than such an Establishment.

An Advertisement.

THere is lately Published by *Randal Taylor* the Proceedings of the present Parliament, justified by the Opinion of the most Judicious and Learned *Hugo Grotius*, with Considerations thereupon; Written for the satisfaction of some of the Reverend Clergy, and others, who seem to labour under some Scruples concerning the Original Right of Kings, their Abdication of Empire, and the Peoples inseparable Right of Resistance, Deposing, and of Disposing, and Settling of the Succession to the Crown.

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